IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

Crl.Rev.Pet.No. 713 of 1999

CRA.198/1994 of ADDL.SESSIONS COURT, KOTTAYAM
CC.385/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY

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REVN. PETITIONERACCUSED:

P.E.MOHAMMADUKUTTY, PARAKKAL,
MUNDAKKAYAM.

BY ADV. SRI.V.N.GOPALAKRISHNAN NAIR
SRI.S.SURARSHAN

RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 713 of 1999

ORDER

The accused in C.C.No.385/92 on the file of the Judicial First Class Magistrate's Court-I, Kanjirappally is the petitioner. He was convicted for offence punishable under Sections 2(1)(a)(f) and 7(1) read with Section 16(1A)(i) of the Prevention of Food Adulteration Act, 1954 and Rule 5 Appendix B.A.05.08 of the Prevention of Food Adulteration Rules, 1955 and was sentenced thereunder to undergo rigorous imprisonment for one year and to pay a fine of Rupees two thousand and in default to undergo rigorous imprisonment for six months. Petitioner challenged the conviction and sentence before the Sessions Court, Kottayam and the Sessions Judge, vide judgment in Crl.A.No. 198/94, dismissed the appeal, confirming the correctness of the conviction and sentence passed

by the learned Magistrate against the petitioner. Hence this revision.

2. The case of the prosecution is that PW1, the Food Inspector of Peerumedu Circle, inspected the grocery shop of the petitioner, conducted in Room No.III/63 of Mundakkayam Panchayat, at 11 a.m. on 8.7.1992 and after disclosing his identity, he effected purchase of 450 gms. of coriander whole after giving the original of Exhibit P2 Form No.VI notice and getting Exhibit P2(a) endorsement on the back of the notice and making payment of an amount of Rupees eight as price of the commodity as per Exhibit P3 cash bill, in the presence of witnesses. PW1 divided the coriander whole so purchased, into three equal parts and packed them in clean dry polythene covers and properly sealed them as per Rules, preparing Exhibit P4 Mahazar in that behalf, attested by witnesses. He sent one packet of the samples with Form No.VII to the Public Analyst for analysis and sent the two remaining samples to the Local Health Authority. Exhibit P15 report of the

Public Analyst was that the coriander samples so forwarded to him does not conform to the standards specified under the PFA Act and that it is unfit for human consumption. A copy of the said report was forwarded to the petitioner, calling upon him to apply for sending one of the remaining samples to the Central Food Laboratory. On the application of the petitioner, the second sample was sent to the Central Food Laboratory, Pune. Exhibit P20 is the report so obtained. The said report is also to the effect that the coriander whole does not conform to the standards prescribed under the PFA Rules. After getting ascertained, vide Exhibit P18 letter, that the petitioner is having PFA licence, PW1 lodged a complaint before the Magistrate on 25.8.1992. The learned Magistrate took cognizance of the offence and registered the case on the file of his court as S.T.No.766/92. That was subsequently converted as a warrant trial case and was re-filed as C.C.No.385/92.

3. On appearance of the petitioner, pursuant to the issuance of summons, he pleaded not guilty to the charge and consequently a trial of the case was conducted. Prosecution examined PWs 1 to 5 and got marked Exhibits P1 to P23. On the prosecution closing their evidence the petitioner was questioned under Section 313 Cr.P.C. On the defence side DW1 was examined. Considering the evidence so adduced, the learned Magistrate found the petitioner guilty of the offence alleged and consequently convicted and sentenced him as already stated.

4. It is seen, on going through the judgments of the trial court as also the appellate court, that the courts below have analysed and dealt with all the contentions advanced by the petitioner in the proper perspective to come to the conclusion that the accused is guilty of the offences alleged. He was rightly being found concurrently by the courts below to be guilty of the offences with which he stood charged. No argument was advanced

before me assailing the concurrent findings so entered into by the courts below. On a perusal of the records, I am of the view that the courts below have considered the case in all its meticulous details, considering all the contentions of the petitioner in the proper perspective and that the conviction and sentence entered into by the courts below against the petitioner is correct and sustainable. There is no illegality, impropriety or irregularity in the conviction and sentence so passed by the courts below against the petitioner.

This revision, in the circumstances, is devoid of merit and is dismissed.

15th January, 2007 (K.P.Balachandran, Judge)

tkv

K.P.Balachandran, J.

Crl.R.P.No.713 of 1999

ORDER

15th January, 2007